



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,091	12/12/2003	Richard A. Davis	4476-00011	1601

7590 02/09/2006
John T. Pienkos
Whyte Hirschboeck Dudek S.C.
555 East Wells Street
Suite 1900
Milwaukee, WI 53202-3819

EXAMINER

GOODEN JR, BARRY J

ART UNIT	PAPER NUMBER
----------	--------------

3616

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/735,091	DAVIS ET AL.	
	Examiner	Art Unit	
	Barry J. Gooden Jr.	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20-25 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/12/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the saddle seat having a third horizontal plane spaced above the first and second horizontal planes (Figure 4 does not show this) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3616

3. Claims 17, 18, and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Rondeau et al., US Patent 6968917 B2.

In regards to claims 17, 18, and 22-25, Rondeau et al. clearly show all of the claimed elements:

a longitudinally elongated frame (102);

front (106) and rear (111) suspensions coupled to and spaced longitudinally along said frame (102);

a longitudinally elongated multi-place multi-planar saddle seat (139) assembly on said frame (102), said multi-place multi-planar saddle seat (139) assembly accommodating at least two riders in tandem, namely an operator driver and a passenger, said multi-place multi-planar saddle seat (139) assembly having first (140) and second (145) sections at different levels, wherein said first section (140) seats the driver, and said second section (145) is aft of and higher than said first section (140) and seats the passenger;

said frame (102) being sufficiently longitudinally elongated to accommodate said multi-place saddle seat (139) assembly and the at least two riders in tandem;

front (105) and rear (110) pairs of laterally spaced wheels coupled to said front (106) and rear (111) suspensions, respectively, said front (105) and rear (110) pairs of wheels being spaced apart by a wheelbase (L), said wheelbase (L) being sufficiently longitudinally elongated to accommodate said frame (102) and said multi-place saddle seat (139) assembly and the at least two riders in tandem;

said front (106) and rear (111) suspensions being sufficiently sized and sprung to accommodate said wheelbase (L) and said frame (102) and said multi-place saddle seat (139) assembly and the at least two riders in tandem; and

a pair of elongated multi-place multi-planar foot board (250) assemblies on said frame (102) on laterally opposite sides of said multi-place saddle seat (139) assembly, said multi-place multi-planar foot board (250) assemblies having first (260) and second (270) pairs of foot rests at different levels (See Figure 1), wherein said first pair (260) of foot rests positions the feet of the driver, and said second pair

Art Unit: 3616

(270) of foot rests is aft of and higher than said first pair (260) of foot rests and positions the feet of the passenger;

wherein each of said multi-place multi-planar foot board (250) assemblies is a single unitary member (See Figure 5c) having a transition portion (270b) extending upwardly and rearwardly from the respective first foot rest (260) to the respective second foot rest (270);

wherein said first pair (260) of foot rests each comprise a raised rib (280) extending under and locating the feet of the operator driver;

wherein said second pair of foot rests (270) each comprise a raised rib (290) extending under and locating the feet of the passenger; and

comprising in combination a pair of grip handles (340) on laterally opposite sides of said multi-place multi-planar saddle seat (139) assembly and above said multi-place multi-planar foot board (250) assemblies for gripping by the passenger.

The Examiner notes that the original disclosure dated 11/21/2000 does not disclose a multi-planar foot board (where multi-planar is defined as parallel levels one being located higher than the other). Thus, the Applicant is not afforded the benefit of the 11/21/2000 filing date.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of

Art Unit: 3616

each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rondeau et al. in view of Nutile et al., US Patent 5,456,138.

In regards to claims 20 and 21, Rondeau et al. show all of the claimed elements except for the second pair of foot rests comprising toe supports wherein the toe supports extend over the toes of the passenger.

Nutile et al. teach of toe supports extending rearwardly and locating the toes of the passenger wherein the toe supports extend over the toes of the passenger.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the foot rests of Rondeau et al. in view of the teachings of Nutile et al. to include toe supports so as to provide a means of securing the passenger's feet with respect to the length of the vehicle.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hisada, US Patent 5,893,424 in view of Grinde et al., US Patent 5,845,918.

In regards to claims 1, 3-5 Hisada discloses all of the claimed elements including:

a longitudinally elongated frame (10);

front and rear suspensions coupled to and spaced longitudinally along said frame (10) (as is conventional in the art);

a longitudinally elongated multi-place saddle seat (20) assembly on said frame (10), said multi-place saddle seat (20) assembly accommodating riders;

said frame (10) being sufficiently longitudinally elongated to accommodate said multi-place saddle seat (20) assembly and the at least two riders in tandem;

Art Unit: 3616

front (12) and rear (13) pairs of laterally spaced wheels coupled to said front and rear suspensions, respectively, said front (12) and rear (13) pairs of wheels being spaced apart by a wheelbase, said wheelbase being sufficiently longitudinally elongated to accommodate said frame (10) and said multi-place saddle seat (20) assembly and the riders;

a pair of elongated multi-place foot board (22) assemblies on said frame (10) on laterally opposite sides of said multi-place saddle seat (20) assembly, said multi-place foot board (22) assemblies having a first pair of foot rests positioning the feet of the driver; and

a pair of grip handles (parts of 21 proximal opposite sides of the seat (20)) on laterally opposite sides of said multi-place saddle seat (20) assembly for gripping by the passenger;

wherein said grip handles (parts of 21) are mounted to said multi-place saddle seat (20) assembly (through the seat's attachment to the frame of the vehicle and the grip handles' attachment to the frame the grip handles are mounted to the multi-place saddle seat (20) assembly);

wherein said grip handles (parts of 21) are mounted to said frame (10) (21 is mounted to the frame (column 3, lines 38-40));

wherein said grip handles (parts of 21) are laterally spaced from said multi-place saddle seat assembly; and

wherein said grip handles (part of 21) are mounted to a rack assembly (21) (Since part of the rack (proximal opposite sides of the seat) is acting as the handles the handles are attached to the rack).

With respect to the seat accommodating at least two riders, the seat of Hisada is fully capable of accommodating at least two riders in tandem. Nevertheless, such limitations do not serve to distinguish over the structure of Hisada.

Hisada does not disclose the vehicle having front and rear suspensions being sufficiently sized and sprung to accommodate said wheelbase and said frame (10) and said multi-place saddle seat (20) assembly and the at least two riders in tandem.

Art Unit: 3616

Grinde et al. teach of a vehicle having front and rear suspensions being sufficiently sized and sprung to accommodate a wheelbase, frame and passengers (column 1, lines 5-16).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle of Hisada in view of the teachings of Grinde et al. to include a front and rear suspension being sufficiently sized and sprung to provide enhanced riding characteristics associated with a sufficiently sized and sprung suspension.

8. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hisada in view of Mikuniya et al., US Patent 4,691,963.

a longitudinally elongated frame (10);

front and rear suspensions coupled to and spaced longitudinally along said frame (10);

a longitudinally elongated multi-place saddle seat (20) assembly on said frame (10), said multi-place saddle seat (20) assembly accommodating riders;

said frame (10) being sufficiently longitudinally elongated to accommodate said multi-place saddle seat (20) assembly and the riders;

front (12) and rear (13) pairs of laterally spaced wheels coupled to said front and rear suspensions, respectively, said front (12) and rear (13) pairs of wheels being spaced apart by a wheelbase, said wheelbase being sufficiently longitudinally elongated to accommodate said frame (10) and said multi-place saddle seat (20) assembly and the riders;

said front and rear suspensions being sufficiently sized and sprung to accommodate said wheelbase and said frame (10) and said multi-place saddle seat (20) assembly and the riders;

a pair of elongated multi-place foot board (22) assemblies on said frame (10) on laterally opposite sides of said multi-place saddle seat (20) assembly, said multi-place foot board (22) assemblies having a first pair of foot rests positioning the feet of the driver.

Hisada does not show a multi-planar saddle seat.

Art Unit: 3616

Mikuniya et al. teach of a multi-place, multi-planar saddle seat wherein said multi-place multi-planar saddle seat assembly is a single unitary member (column 1, lines 34-36) having a transition portion (3,C) extending upwardly and rearwardly from said first section (A) to said second section (B); and wherein said transition portion (3,C) has a recessed portion (3 has recesses) and locates (the driver will sit against 3) the rump of the driver straddling said multi-place saddle seat assembly.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Hisada in view of the teachings of Mikuniya et al. to include a multi-planar seat so as to provide seating for multiple riders and a pleasing appearance (column 1, lines 48-50).

9. Claims 6, 9-10, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hisada in view of Watkins et al., US Patent 5,915,329.

Hisada discloses all of the claimed elements as disclosed in item 7 above except for a multi-planar saddle seat and shoulder portions.

Watkins et al. teach of a multi-place, multi-planar saddle seat (140) wherein said second section (146) comprises a raised shoulder (153) extending upwardly from the second section (146) and locating the rump of the passenger straddling said multi-place multi-planar saddle seat (140) (See Figure 2);

wherein said raised shoulder (153) has a recessed portion (152) (See Figure 2);

wherein said multi-place saddle seat comprises a third section in tandem with said first and second section and aft of said first and second sections, wherein said third section lies in a third horizontal plane spaced above said first and second horizontal planes, such that the combination of said first second and third sections provides a tri-planar tri-level saddle seat construction (See Figure 7);

further comprising a divider (150) between said first (144) and second (146) sections and extending upwardly from said first (144) and second (146) saddle seats and locating the rump of the driver, and also locating the legs of the passenger straddled on each side thereof;

wherein said divider (150) includes a handle for gripping by the passenger; and

further comprising a pair of raised shoulders (150,153) each extending upwardly from said multi-place multi-planar saddle seat (140), a first of said shoulders (150) being a divider between said first (144) and second (146) sections and locating the rump of the driver and also locating the legs of the passenger straddled on each side thereof, the second of said shoulders (153) being behind the second section (146) and locating the rump of the passenger (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Hisada in view of the teachings of Watkins et al. to include a multi-planar saddle seat with shoulder portions so as to increase comfort and safety.

10. Claims 6, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hisada in view of Katsuoka, US Patent 4,527,831.

Hisada discloses all of the claimed elements as disclosed in item 7 above except for a multi-planar saddle seat and different members having a step change.

Katsuoka teaches a multi-planar saddle seat wherein said multi-place, multi-planar saddle seat assembly comprises first (20) and second (24) different members providing said first (20) and second (24) sections, respectively; and

wherein said first (20) and second (24) members face each other at an interface (See Figure 5) having a step change from a first level to a higher second level (See Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the saddle seat of Hisada in view of the teachings of Katsuoka to include separate seat members so as to provide passenger seat height adjustment (Abstract).

Allowable Subject Matter

11. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3616

In regards to claims 19, the Applicant claims foot rests comprising pockets that locate the toes of the passenger's feet.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

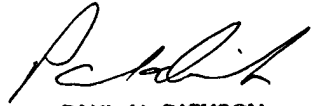
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry J. Gooden Jr. whose telephone number is (571) 272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barry J Gooden Jr.
Examiner
Art Unit 3616

BJG

 2/6/06
PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600